

**Minutes of UST Operator Training Requirements – Second meeting – December 8, 2008 1:00-4:00pm at DEQ-PRO Office**

**Attendees:**

Dan Laing – VDOT  
Suzanne Schweikart (and David Peterson) – 7-Eleven  
Jeff Howard – Chesterfield County  
Emory Rodgers – DHCD  
Mike O'Conner – VPCGA

**DEQ Staff:**

Betty Lamp – Director, OSRR  
Renee Hooper – OSRR  
Russ Ellison – OSRR  
Tom Madigan – DEQ-TRO

**Called in 12/08 and could not attend:**

Peter Baird – F. W. Baird, Inc.  
Suzanne Ankrum - VCN

1:15pm--Russ Ellison opened the meeting by reviewing the federal operator training guidelines and the group's progress to date with regards to drafting operator training requirements. Renee Hooper reviewed the DEQ TAC guidelines for all members.

Russ handed out a copy of the "straw man" draft regulation and noted that it was very similar to Pennsylvania's draft and indicated it was slightly different than the version emailed to the TAC to review before the meeting.

Russ led a line-by-line discussion of the draft regulation.

Suggested text changes to the straw-man draft regulation under discussion included:

- Requiring both the owner and operator to comply with operator training requirements to make these requirements consistent with all other technical requirements in the regulation.
- Consolidating sections to clarify that a single operator can be all Classes of operator.
- Clarifying that "companies" should be referred to as "person(s)" when they are hired to perform the operator duties since person is the inclusive term for entities throughout the regulation.
- Discussed what evidence of operator training should be "maintained" at the facility—using the term "readily" available instead of "immediately" available when referring to instructions for Class C procedures.
- Moved language originally in the separate operator class sections into one general section applicable to all operators.

Other general discussion points included:

Dan Laing (VDOT) inquired what the definition of "unmanned" facility is. Is an after hours facility an unmanned facility? After hours VDOT and other agencies have keys to access fuel pumps. Is it a facility that is open after hours an unmanned facility or a manned facility? Emory Rodgers cleared up the logic and gave good examples from his

experience. Russ noted that a good compromise likely would be that “unmanned” means what it means. If no one is there, it’s an unmanned facility and the C operator must be reached by telephone within 2 hours. An unmanned facility would be a facility that doesn’t have a body on site at that time. He used Dan’s facility as an example: the facility is manned when it is open during normal business hours and unmanned when the facility is closed for night but pumps are accessible. Dan suggested creating a definition.

Russ offered that the Class A and B persons could more easily be trained with the same course areas to simplify training. Comments were made by the group about not wanting Class C (clerks) to be trained for B or A training areas.

Emory Rodgers questioned some of the wordy EPA language defining the classifications of operator and felt that it was inappropriate narrative for a regulation. Betty Lamp responded that it was taken directly from the EPA guidance. Emory suggested moving some of the narrative to the Definitions section. DEQ staff agreed to look at the best way of revising those sections.

125.C.1 – “Approved by the Board”: The group discussed what board approval should entail. Should DEQ approve the course syllabus? The trainer? Dan and Suzanne indicated that they would prefer that DEQ approve the course beforehand. Suzanne suggested having the operator and/or the training company file a statement certifying that the course taken complied with DEQ’s requirements. Renee Hooper pointed out that DEQ had no enforcement authority against the trainers so could not take action for an inadequate or false certification.

125.C.6. Mike O’Connor pointed out that this operator training requirement is an unfunded state mandate that would be difficult to bear by small operators. He suggested that DEQ develop a course with syllabus and materials to give to small operators to train with to cut the cost to the small operator.

125.E. Retraining: Suzanne asked what triggers retraining? DEQ staff indicated that it would likely be the issuance of a warning letter or notice of violation. She expressed concern that inconsistency in regions means that she could have to retrain constantly depending upon what kind of mechanism the region uses to initiate the compliance action. The group discussed the merits of having the trigger be a NOV rather than a warning letter. DEQ staff offered that the better place to spell it out is in the guidance rather than the regulation.

Suzanne expressed concern as a large tank owner that Class A and B operators would be retraining constantly as only one person would be the Class A or Class B operator for a large geographical area. She used the water in the pump sump as an example. 7-11 facilities receive warning letters for water in the sump relatively frequently which could mean that she, as the designated Class A operator for the eastern coast, would be required to retrain every time. The group then discussed whether it is appropriate to issue WL for this type of violation.

Renee pointed out that the federal guidelines were designed to encourage management to invest in compliance by requiring managers to retrain when facility violations occur. Both Suzanne and Dan inquired whether the regulation would allow owners with a large amount of facilities to retrain once every so often for all significant operational

compliance violations discovered during a period of time rather than retraining every time one of their facilities has a violation.

The group then discussed the possibility of different retraining time periods for large owners or limiting retraining to Class B operators.

DEQ staff stated that they would review the "Approved by the Board" issue and suggest some language to clarify what that means. Staff requested any ideas or thoughts from the TAC to take with them for their discussion. Suzanne and David again suggested a DEQ certificate of compliance that certifies the training met the training criteria. Jeff Howard with Chesterfield and VDOT seconded the idea.

Dan discussed VDOT's special problem of the way it designates its operators. The Class C operator is responsible for some of the Class B's duties. DEQ stated that each entity must sort out how it will work for them and DEQ will likely remain flexible in this area.

Meeting adjourned at 4:00pm – DEQ staff announced it will review the comments, make necessary amendments, and send members the revised draft for discussion at a likely third meeting.